

Office Action Summary	Application No.	Applicant(s)	
	10/029,784	KAMEN, YAKOV	
	Examiner	Art Unit	
	Fred Peng	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/02/2007 has been entered.

DETAILED ACTION

Response to Arguments

2. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification fails to enable one of ordinary skill in the art how to make or use "the second threshold is less than the first threshold" as recited in Claims 1, 7 and 13.

The specification at page 7, lines 9-16 disclose that the second threshold (109) is less than the first threshold (108). See Fig.1. Programs having a threshold equal to or greater than the first threshold (108) are stored in a preferred list. Programs equal to or lower than the second threshold (109) are removed from the preferred list.

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If programs must have a threshold at least equal to the first threshold (108), then it is impossible for any program to have a threshold equal to or lower than the second (109), since the first threshold (108) is greater than the second threshold (109).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bates et al (US 6,721,953 B1) in view of Ismail et al (US 6,614,987 B1).

Regarding Claims 1, 7, and 13, Bates discloses a system which implements a method, a computer readable medium and corresponding system comprising: a first unit to add to a first set of broadcasted programs a second set of broadcasted programs, the second set of broadcasted programs including broadcasted programs viewed by a viewer for a period of time at least equal to a first threshold (a first computational "unit" adds the programs based upon a program viewed for a period of time; there exists a 'first set' since block 142 determines whether 'one or more records already exist in the favorite program table matching the current program information for the program currently being viewed' col. 7, line 60 to col. 8, line 5); a second unit coupled with the first unit to remove from the first set of broadcasted programs a third set of broadcasted programs, the third set of broadcasted programs including broadcasted programs not viewed by a viewer for a period of time at least equal to a second threshold (a second computational "unit" removes the programs entries with lowest counts are removed based

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on 'other criteria (e.g., accumulated viewing time)' so as to maintain a fixed number of counts col. 8, lines 19-33).

Bates does not specifically disclose the second threshold is less than the first threshold.

In an analogous art, Ismail discloses the second threshold is less than the first threshold (Col 10 lines 63-67, Col 11 lines 1-2, 14-20; Col 12 lines 7-8, 19-38; the programs already stored in the preference database is aging and is multiplying with a degradation co-efficient, as a result, the viewing time statistic is reduced and the corresponding watched degradation threshold to delete the program, the second threshold, is also reduced).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Bates' method to include the second threshold is less than the first threshold, as taught by Ismail to provide extra margin to produce more consistent and stable user preference database.

Regarding Claims 2, 8, and 14, Bates discloses wherein the first unit is further to add to the first set of broadcasted programs a fourth set of broadcasted programs manually selected by the viewer (the programs are 'manually selected by the viewer' by depressing an execute or the like button on a remote controller (col. 11, line 55 to col. 12, line 11); by watching a channel past a threshold, the user is effectively "selecting" a program to be added as a "favorite" col. 7, line 60 to col. 8, line 5).

Regarding Claims 3, 9, and 15, Bates discloses the first unit is further to update the first threshold and the second threshold upon the viewer indicating dissatisfaction (Increasing or decreasing the length of time a user has to view a program before it is automatically determined to be a favorite impacts the first and second threshold; by changing the threshold, an updated or new criteria can change the criteria by which a program is added upon viewer dissatisfaction. Furthermore, altering the threshold effectively determines which programs shall be removed, should there be a 'fixed maximum size' for the program table col. 8, lines 1-5).

Regarding Claims 4, 10, and 16, Bates discloses the first unit is further to update the first threshold and the second threshold upon the viewer returning to a schedule list more than a predetermined number of times (when a viewer selects a channel through the schedule list, col. 11, line 55 to col. 12, line 10 a channel can be viewed past a designated threshold, whereby the user is effectively "selecting" a program to be added or updated as a "favorite" col. 7, line 60 to col. 8, line 5).

Regarding Claims 5, 11, and 17, Bates discloses the first unit is further to set the first threshold to be a first percentage of a period of time that a channel was viewed, and to set the second threshold to be a second percentage of the period of time that the channel was viewed (since table 50 may be kept at a fixed size, and lowest counts can be deleted, then the threshold is effectively a percentage. For example, if the lowest entry is to be removed, anything viewed less than 100 percent of the second to lowest entry would be removed col. 8, lines 19-33).

Regarding Claims 6, 12, and 18, Bates discloses the first unit is further to add to the first set of broadcasted programs a fifth set of broadcasted programs, the fifth set of broadcasted programs including broadcasted programs selected by a viewer a number of times at least equal to a third threshold (col. 7, line 60 to col. 8, line 5; additional time/viewing time col. 8, lines 19-33 and col. 7, line 60 to col. 8, line 5 can in conjunction, be the threshold by which to add/remove programs); wherein the second unit is further to remove from the first set of broadcasted programs a sixth set of broadcasted programs, the sixth set of broadcasted programs including broadcasted programs not selected by a viewer a number of times at least equal to a fourth threshold (entries with lowest counts are removed col. 8, lines 19-33; additional time/viewing time col. 8, lines 19-33 and col. 7, line 60 to col. 8, line 5 can in conjunction, be the threshold by which to add/remove programs).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Peng whose telephone number is (571) 270-1147. The examiner can normally be reached on Monday-Friday 08:30-18:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fred Peng
Patent Examiner

Chris Grant
Supervisory Patent Examiner

A handwritten signature in black ink, appearing to read 'Chris Grant', with a stylized flourish at the end.

CHRISTOPHER GRANT
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